

THIS PAGE LEFT INTENTIONALLY BLANK FOR PURPOSES
OF SEPARATING EACH OF THE COMMUNICATION THREADS



Re: Realtime Requests by Theresa Duncan; Proper Rates to be Charged.

Jennifer Bean to: James O Browning

03/23/2018 05:40 PM

Cc: Cari Waters, K'Aun Wild, Lincoln J Sorrell

I respectfully disagree with this and have submitted a letter today to Judge Browning outlining my position with specificity.

I had not seen this email since my court computer need to be updated by IT, and was just accomplished this moment.

Jennifer Bean, FAPR, RMR, CRR, CCR #94
Official Court Reporter for U.S. District Court Judge James Browning
United States District Court, District of New Mexico
505-348-2283
Fax: 843-9492

James O Browning (1) The correct cost will be \$1.50 per page (2) C...

03/20/2018 04:37:15 PM

From: James O Browning/NMD/10/USCOURTS
To: Jennifer Bean/NMD/10/USCOURTS@USCOURTS
Cc: K'Aun Wild/NMD/10/USCOURTS@USCOURTS, Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS, Cari Waters/CA10/10/USCOURTS@USCOURTS
Date: 03/20/2018 04:37 PM
Subject: Re: Realtime Requests by Theresa Duncan; Proper Rates to be Charged.

(1) The correct cost will be \$1.50 per page
(2) CJA will pay for 4 pages (\$6.00)
(3) USA will pay for 1 page (\$1.50)
Total: \$7.50.

The April 14, 2011 memorandum makes this clear. See Ex. A (highlights and underline added). The bad break is at 5. She is better to do 4 (\$8.40) or 6 (\$9.00). 5 only gets \$7.50, which does not make sense, but appears to be the AO rate.

Jim

[attachment "Ex. A 4-14-11 Memo.pdf" deleted by Jennifer Bean/NMD/10/USCOURTS]

Jennifer Bean I am in the process of drafting a detailed respons...

03/15/2018 06:27:23 PM

From: Jennifer Bean/NMD/10/USCOURTS
To: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Cc: James O Browning/NMD/10/USCOURTS@USCOURTS, K'Aun Wild/NMD/10/USCOURTS@USCOURTS
Date: 03/15/2018 06:27 PM
Subject: Re: Realtime Requests by Theresa Duncan; Proper Rates to be Charged.

I am in the process of drafting a detailed response along with my attorney. But the thing that really stands out is if they think I should only charge \$1.50 per page per feed since there were five, at \$7.50 per page, that would mean I have to purchase more laptops, cabling, other equipment, etc., and bill less, which makes no sense at all. To me it's very clear that the first is at \$3.05, then additional feeds as per the schedule. Ms. Waters agreed with my computation as shown by her email in the attached email string.

I am especially concerned since I will have to purchase even more laptops, cabling, etc. for Trial 2, to the tune of several thousand dollars.

Jennifer Bean, FAPR, RMR, CRR, CCR #94
 Official Court Reporter for U.S. District Court Judge James Browning
 United States District Court, District of New Mexico
 505-348-2283
 Fax: 843-9492

Lincoln J Sorrell Jennifer, Subject

03/15/2018 10:46:07 AM

From: Lincoln J Sorrell/NMD/10/USCOURTS
 To: Jennifer Bean/NMD/10/USCOURTS@USCOURTS
 Cc: James O Browning/NMD/10/USCOURTS@USCOURTS, K'Aun
 Wild/NMD/10/USCOURTS@USCOURTS
 Date: 03/15/2018 10:46 AM
 Subject: Realtime Requests by Theresa Duncan; Proper Rates to be Charged.

Jennifer,

Subject

Theresa Duncan's Realtime Unedited Requests for SNM #1.

Trial, 3/5/18 (1084.0581503) (Auth 24)
 Trial, 2/5/18 to 2/9/18 (1084.582767)
 Trial, 2/12 to 2/16/18 (1084.0582768)
 Trial, 2/20 to 2/23/18 (1084.0582722)
 Trial, 2/26 to 3/2/18 (1084.0577364)
 Trial, 1/31 to 2/2/18 (1084.0570637)

Issue: The rate at which these should be billed.

Maximum Transcript Rates

<p>Realtime Transcript</p> <p>A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.</p>	<p>One feed, ¹\$3.05 per page; two-to-four feeds, \$2.10 per page; five or more feeds, \$1.50 per page.</p>	
---	---	--

Four realtime feeds were provided to defense counsel during the SNM #1 trial. A fifth was provided to the Government.

- I read the maximum transcript rate to be \$2.10 per page since four feeds were provided to CJA counsel. This would yield a total per page rate of \$8.40. I don't take a position on whether the fifth feed to the Government should be included.
- Jennifer, you read the transcript rate to be \$3.05 for the first feed, and then \$2.10 for the remaining three feeds for a total per page rate of \$9.35.

Interpretation by the AO.

Paul Dennicoff, Esq., Senior Atty Advisor, Defender Legal & Policy Division and Julie Neville, Court Programs Division, Special Programs Branch have weighed in on this issue. Julie is the subject matter

expert on court reporting policy at the AO. Attached are email strings that indicate the AO subject matter expert and legal counsel interpret the proper total per-page rate to be \$8.40 for the four feeds. As you will see in Ms. Neville's response, "all feeds must be billed at the same rate." (Indeed, since there is a fifth feed, one interpretation is that all feeds should be billed at the \$1.50 per page rate. See more in Discussion, below.)

[attachment "Realtime Rate eml discussion w AO.pdf" deleted by Jennifer Bean/NMD/10/USCOURTS]
[attachment "Realtime Rate eml discussion w Cari.pdf" deleted by Jennifer Bean/NMD/10/USCOURTS]

Interpretation by Your Attorneys.

You have indicated that attorneys you've consulted agree with your interpretation.

Discussion.

I mentioned in one email that I would send the realtime requests through at the rate of \$9.35 per page. I did so after reading an email from Cari Waters tentatively agreeing with your interpretation. She then sent a quick follow-up email indicating she was not sure, had not heard from a colleague with whom she consulted, and suggested I call defender services. With that, I sent an email to Steve McCue, who in turn brought Mr. Dennicoff and Ms. Neville into the loop. That is when the interpretation of \$8.40 total per page came to light. I could not "turn a blind eye" to this new information--direct from the AO--and ultimately declined to submit these at the \$9.35 rate.

You will also note that Dennicoff asks the question about a fifth feed. Once I indicated there was a fifth feed, though not part of the arrangements made with CJA counsel, Neville responds that the per page rate should be \$1.50 per page "regardless of which party they were for." This creates a dilemma for me because that does not seem right to me, but I am bound by Judicial Conference to "determine whether billings and transcript formats comply with Judicial Conference requirements." (*Guide*, Sec. 290,30,40.) Since there seems to be a split in legal interpretations anyway, perhaps Judge Browning can provide some guidance.

Finally,

This has to do only with those realtime requests submitted by Theresa Duncan (Baca) for SNM Trial #1, as stated above. Any other transcript requests (e.g. those of Edward Troup) are wholly separate and are progressing through the Auth/CJA 24 process as per normal.

Lincoln Sorrell
Deputy-in-Charge
US District Court, District of New Mexico
100 N. Church St., Ste. 280
Las Cruces, New Mexico 88001
(575) 528-1417
(575) 323-4793



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

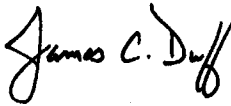
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

April 14, 2011

MEMORANDUM

To: Chief Judges, United States Courts
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts

From: James C. Duff 

RE: AMENDMENT TO MAXIMUM FEES FOR REALTIME SERVICES **(INFORMATION)**

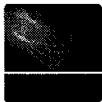
At its March 2011 session, the Judicial Conference amended the maximum fees for realtime services. The amended fees are based on the number of realtime connections (feeds) provided by a certified realtime court reporter as follows:

- One feed, the ordering party pays \$3.05 per page;
- Two to four feeds, each party receiving a feed pays \$2.10 per page; or
- Five or more feeds, each party receiving a feed pays \$1.50 per page.

Under the new maximum fees for realtime services, all parties to the case who receive a realtime feed pay the same amount for the services that are received. If a court reporter provides two or more feeds to the same party to the case, the reporter may charge for each feed provided based on the total number of feeds ordered.

Each court may adopt a schedule of transcript fee rates subject to the maximum rates established by the Judicial Conference. Realtime services ordered prior to the date of a court's adoption of the new rates should be billed at the rates in effect at the time the realtime order was placed with the official court reporter. Court reporter contracts may be adjusted in accordance with the terms and conditions of the contract agreement. A revised Schedule of Maximum Rates is available at: [http://jnet.ao.dcn/District/Court Reporting/Transcript Fees.html](http://jnet.ao.dcn/District/Court%20Reporting/Transcript%20Fees.html)

If you have any questions concerning the amended maximum fees for realtime services, please contact Robin Cole in the District Court Administration Division at 202-502-3289.



Re: Fw: Realtime Unedited Rates ? 

Julie Neville to: Paul Denicoff

Cc: Lincoln J Sorrell, Stephen McCue

03/13/2018 09:24 AM

I did, I apologize.

Julie Neville, J.D.

Court Reporting Program Specialist

Court Services Office

Administrative Office of the U.S. Courts

Tel 202-502-3414

Paul Denicoff

Julie, Did you mean to type \$1.50/page for each f...

03/13/2018 11:22:51 AM

From: Paul Denicoff/DCA/AO/USCOURTS
To: Julie Neville/DCA/AO/USCOURTS@USCOURTS
Cc: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS, Stephen McCue/NMF/10/FDO@FDO
Date: 03/13/2018 11:22 AM
Subject: Re: Fw: Realtime Unedited Rates?

Julie,

Did you mean to type \$1.50/page for each feed?

Paul

Paul Denicoff

Senior Attorney Advisor

AOUSC/Defender Services Office

202-502-3043

Julie Neville

If 5 total feeds were ordered, then the charge wo...

03/13/2018 11:10:43 AM

From: Julie Neville/DCA/AO/USCOURTS
To: Paul Denicoff/DCA/AO/USCOURTS@USCOURTS
Cc: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS, Stephen McCue/NMF/10/FDO@FDO
Date: 03/13/2018 11:10 AM
Subject: Re: Fw: Realtime Unedited Rates?

If 5 total feeds were ordered, then the charge would be \$1.05 per page for each of the feeds, regardless of which party they were for.

Julie Neville, J.D.

Court Reporting Program Specialist

Court Services Office

Administrative Office of the U.S. Courts

Tel 202-502-3414

Paul Denicoff

Julie, So would a fifth feed, if that's the number ul...

03/13/2018 10:30:14 AM

From: Paul Denicoff/DCA/AO/USCOURTS
To: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Cc: Julie Neville/DCA/AO/USCOURTS@USCOURTS, Stephen McCue/NMF/10/FDO@FDO

RACD
2/16/18

Date: 03/13/2018 10:30 AM
Subject: Re: Fw: Realtime Unedited Rates?

Julie,

So would a fifth feed, if that's the number ultimately provided, lower the amount for all to \$1.50/page?

Paul
Paul Denicoff
Senior Attorney Advisor
AOUSC/Defender Services Office
202-502-3043

Lincoln J Sorrell Paul, et al. Thanks so much for the guidance. A... 03/13/2018 10:20:15 AM

From: Lincoln J Sorrell/NMD/10/USCOURTS
To: Paul Denicoff/DCA/AO/USCOURTS@USCOURTS
Cc: Julie Neville/DCA/AO/USCOURTS@USCOURTS, Stephen McCue/NMF/10/FDO@FDO
Date: 03/13/2018 10:20 AM
Subject: Re: Fw: Realtime Unedited Rates?

Paul, et al.

Thanks so much for the guidance. A fifth feed was being provided to the Government. But only four to CJA counsel, and it is CJA counsel that submitted the request via eVoucher. I don't know what arrangements the court reporter has made with the Government.

Lincoln Sorrell
Deputy-in-Charge
US District Court, District of New Mexico
100 N. Church St., Ste. 280
Las Cruces, New Mexico 88001
(575) 528-1417
(575) 323-4793

Paul Denicoff Julie, Thank you! 03/13/2018 06:53:31 AM

From: Paul Denicoff/DCA/AO/USCOURTS
To: Julie Neville/DCA/AO/USCOURTS@USCOURTS
Cc: Stephen McCue/NMF/10/FDO@FDO@USCEXT, Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Date: 03/13/2018 06:53 AM
Subject: Re: Fw: Realtime Unedited Rates?

Julie,

Thank you!

I'm still interested to hear from Stephen or Lincoln whether anyone else other than the four CJA panel attorneys will be receiving the realtime. Then, perhaps, the \$1.50 rate could apply. And I like your cost-saving idea.

Paul
Paul Denicoff
Senior Attorney Advisor
AOUSC/Defender Services Office
202-502-3043

Julie Neville Good Morning All, The court reporter is incorrect... 03/13/2018 08:26:47 AM

From: Julie Neville/DCA/AO/USCOURTS
To: Paul Denicoff/DCA/AO/USCOURTS@USCOURTS
Cc: Stephen McCue/NMF/10/FDO@FDO@USCEXT, Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Date: 03/13/2018 08:26 AM
Subject: Re: Fw: Realtime Unedited Rates?

Good Morning All,

The court reporter is incorrect here. When multiple paid realtime feeds are provided, all feeds must be billed at the same rate. For a total of four feeds, each would be billed at \$2.10 per page. Realtime feeds are not certified transcripts, they are more like rough drafts, so the commercially competitive copy rate does not apply. The way to save funds would be to order fewer feeds and then share the rough draft printouts at the end of the day.

Best,
Julie

Julie Neville, J.D.

Court Reporting Program Specialist
Court Services Office
Administrative Office of the U.S. Courts
Tel 202-502-3414

Paul Denicoff Stephen, I have a question -- is the realtime feed... 03/13/2018 07:11:46 AM

From: Paul Denicoff/DCA/AO/USCOURTS
To: Stephen McCue/NMF/10/FDO@FDO@USCEXT
Cc: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS, Julie Neville/DCA/AO/USCOURTS@USCOURTS
Date: 03/13/2018 07:11 AM
Subject: Re: Fw: Realtime Unedited Rates?

Stephen,

I have a question -- is the realtime feed being provided to any attorneys other than the four panel attorneys, including the AUSA(s) and/or retained counsel? If so, what rate is being charged?

I'm also bringing Julie Neville, a court reporting expert in the Court Programs Division/Special Programs Branch, into the conversation.

I'm wondering whether the commercially competitive rate guideline applies to realtime.

Paul
Paul Denicoff
Senior Attorney Advisor

AOUSC/Defender Services Office
202-502-3043

Stephen McCue

Paul, Hope all is well. Our clerk's office here in...

03/12/2018 07:05:11 PM

From: Stephen McCue/NMF/10/FDO@FDO
To: Paul Denicoff/DCA/AO/USCOURTS@USCOURTS
Cc: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Date: 03/12/2018 07:05 PM
Subject: Fw: Realtime Unedited Rates?

Paul, Hope all is well. Our clerk's office here in New Mexico has a question, set out below. What is the proper reimbursement rate for an official court reporter providing real time transcripts to several panel lawyers in a complex CJA trial? Any thoughts?
Thanks, Steve

Stephen P. McCue
Federal Public Defender
District of New Mexico
111 Lomas NW Suite 501
Albuquerque, NM 87102
(505) 346-2489
stephen_mccue@fd.org

----- Forwarded by Stephen McCue/NMF/10/FDO on 03/12/2018 05:00 PM -----

From: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
To: Stephen McCue/NMF/10/FDO@FDO
Date: 03/12/2018 01:36 PM
Subject: Realtime Unedited Rates.

Hello Steve,

If my court reporter is providing four realtime feeds for four defense attorneys, wouldn't the OCR charge 8.40 per page, given these maximums (see below)? This is the calculation at which I arrived. Our reporter, however, says she should get 3.05 for the first feed, and then 2.10 for the three other feeds for a total per-page rate of 9.35. I don't read it that way. Can you provide guidance?

I've posed this question to Cari Waters who tentatively agreed with the court reporter. She bounced it off a colleague and they could achieve no consensus on the matter. Cari suggested in an earlier email that I run this by defender services, which I took to mean you. What would your interpretation be? I really appreciate your time. Linc

Realtime Transcript A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.	One feed, ¹ \$3.05 per page; two-to-four feeds, \$2.10 per page; five or more feeds, \$1.50 per page.	
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¹A realtime "feed" is the electronic data flow from the court reporter to the computer of each person or party ordering the realtime transcription in the courtroom.

Lincoln Sorrell
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(575) 323-4793

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Re: Fw: Another one: Realtime and "edited roughs" USA v. DeLeon 15cr4268 (DNM)

Cari Waters to: Lincoln J Sorrell

03/12/2018 10:50 AM

I haven't heard back from my colleague yet. I'm just not sure about it. Maybe a call to defender services would be a good idea. C.

Cari Dangerfield Waters
Case Budgeting Attorney
U.S. Court of Appeals for the Tenth Circuit
1823 Stout Street
Denver, CO 80257
Tel: (303) 335-2826

Lincoln J Sorrell

Cari, Thanks very much. This is interesting. I a...

03/12/2018 10:41:19 AM

From: Lincoln J Sorrell/NMD/10/USCOURTS
To: Cari Waters/CA10/10/USCOURTS@USCOURTS
Cc: Jennifer Bean/NMD/10/USCOURTS@USCOURTS
Date: 03/12/2018 10:41 AM
Subject: Re: Fw: Another one: Realtime and "edited roughs" USA v. DeLeon 15cr4268 (DNM)

Cari,

Thanks very much. This is interesting. I am going to send Jennifer's vouchers through at \$9.35 b/c she said she consulted an attorney as well.

Lincoln Sorrell
Deputy-in-Charge
US District Court, District of New Mexico
100 N. Church St., Ste. 280
Las Cruces, New Mexico 88001
(575) 528-1417
(575) 323-4793

Cari Waters

Hi Lincoln, It has been a long time since I've deal...

03/12/2018 10:00:14 AM

From: Cari Waters/CA10/10/USCOURTS
To: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Date: 03/12/2018 10:00 AM
Subject: Re: Fw: Another one: Realtime and "edited roughs" USA v. DeLeon 15cr4268 (DNM)

Hi Lincoln,

RAB

3/16/18

It has been a long time since I've dealt with t/s charges, but I think that the CR is right. Otherwise, I would expect that the second line of the second column would read "one to four feeds" instead of two to four feeds. I'm checking with a colleague to confirm - will let you know what I learn. Cari

Cari Dangerfield Waters
Case Budgeting Attorney
U.S. Court of Appeals for the Tenth Circuit
1823 Stout Street
Denver, CO 80257
Tel: (303) 335-2826

Lincoln J Sorrell Cari, If my court reporter is providing four realtim... 03/09/2018 05:20:33 PM

From: Lincoln J Sorrell/NMD/10/USCOURTS
To: Cari Waters/CA10/10/USCOURTS@USCOURTS
Date: 03/09/2018 05:20 PM
Subject: Fw: Another one: Realtime and "edited roughs" USA v. DeLeon 15cr4268 (DNM)

Cari,

If my court reporter is providing four realtime feeds for four defense attorneys, wouldn't the OCR charge 8.40 per page, given these maximums. Our reporter says she should get 3.05 for the first feed, and then 2.10 for the three other feeds for a per page rate of 9.35. I don't read it that way. Can you provide guidance?

<p>Realtime Transcript A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.</p>	<p>One feed, ¹\$3.05 per page; two-to-four feeds, \$2.10 per page; five or more feeds, \$1.50 per page.</p>	
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¹A realtime "feed" is the electronic data flow from the court reporter to the computer of each person or party ordering the realtime transcription in the courtroom.

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(575) 323-4793

----- Forwarded by Lincoln J Sorrell/NMD/10/USCOURTS on 03/09/2018 05:15 PM -----

From: Lincoln J Sorrell/NMD/10/USCOURTS
To: Cari Waters/CA10/10/USCOURTS@USCOURTS
Date: 02/21/2018 03:25 PM
Subject: Another one: Realtime and "edited roughs" USA v. DeLeon 15cr4268 (DNM)

Cari,

Here is a CJA 24 at the final clerk audit stage, in which Jennifer is charging \$12,761.20 for realtime feed to at least five stations (she says four) and "edited roughs" to counsel by midnight each night. That comes out to \$12.20 per page. By my math, she should only be getting \$2.10 per page (or \$1.50 if there are 5+ feeds) for a total of \$2196.60. I find nothing in the JCUS regs that would allow her to charge for edited roughs, but maybe they baked something extra into the budget.

Btw, dailies have also been pre-approved by the court, in addition to the realtime feeds.

What say you on this question?

CLAIMS FOR SERVICES					
17. COURT REPORTER/TRANSCRIBER STATUS <input checked="" type="checkbox"/> Official <input type="checkbox"/> Contract <input type="checkbox"/> Transcriber <input type="checkbox"/> Other			18. PAYEE'S NAME AND ADDRESS Jennifer Bean Alverson 201 Third Street, NW, Suite 1630 Albuquerque NM 87102 US Phone: 505-348-2283 Fax: 505-843-9492		
19. SOCIAL SECURITY NUMBER OR EMPLOYER ID NUMBER OF PAYEE TIN: XX-XXXXXXX					
20. TRANSCRIPT	INCLUDE PAGE NUMBERS	NO OF PAGES	RATE PER PAGE	SUB-TOTAL	LESS AMOUNT REPORTED
Original	see detail	1046	see detail	\$12,761.20	see detail
Copy	see detail	0	see detail	\$0.00	see detail
Expenses (Itemize)					
TOTAL AMOUNT CLAIMED					
21. CLAIMANT CERTIFICATION OF SERVICE PROVIDED I hereby certify that the above claim is for services rendered and is correct, and that I have not sought or received payment (or compensation or anything of value) from any other source.					
Signature of Claimant/Payee: Jennifer Bean					Date:
ATTORNEY CERTIFICATION					
22. CERTIFICATION OF ATTORNEY OR CLERK I hereby certify that the services were rendered and that the transcript was received.					
Theresa M Duncan					02/17/2018 19:35:59
_____ Signature of Attorney or Clerk					_____ Date
APPROVED FOR PAYMENT – COURT USE ONLY					
23. APPROVED FOR PAYMENT <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">_____ Signature of Judge or Clerk of Court</div> <div style="width: 35%;">_____ Date</div> </div>					
Attention: The notes you enter will be available to the next approval level.					
Public/Attorney Notes	Real time, four stations, plus providing edited roughs by midnight				
Private/Court Notes					

Lincoln Sorrell
 Deputy-in-Charge
 US District Court, District of New Mexico
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 Las Cruces, New Mexico 88001
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**Re: Realtime Requests by Theresa Duncan; Proper Rates to be Charged.**

Jennifer Bean to: James O Browning

03/23/2018 05:40 PM

Cc: Cari Waters, K'Aun Wild, Lincoln J Sorrell

I respectfully disagree with this and have submitted a letter today to Judge Browning outlining my position with specificity.

I had not seen this email since my court computer need to be updated by IT, and was just accomplished this moment.

Jennifer Bean, FAPR, RMR, CRR, CCR #94
 Official Court Reporter for U.S. District Court Judge James Browning
 United States District Court, District of New Mexico
 505-348-2283
 Fax: 843-9492

James O Browning	(1) The correct cost will be \$1.50 per page (2) C...	03/20/2018 04:37:15 PM
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From:	James O Browning/NMD/10/USCOURTS
To:	Jennifer Bean/NMD/10/USCOURTS@USCOURTS
Cc:	K'Aun Wild/NMD/10/USCOURTS@USCOURTS, Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS, Cari Waters/CA10/10/USCOURTS@USCOURTS
Date:	03/20/2018 04:37 PM
Subject:	Re: Realtime Requests by Theresa Duncan; Proper Rates to be Charged.

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 (3) USA will pay for 1 page (\$1.50)
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The April 14, 2011 memorandum makes this clear. See Ex. A (highlights and underline added). The bad break is at 5. She is better to do 4 (\$8.40) or 6 (\$9.00). 5 only gets \$7.50, which does not make sense, but appears to be the AO rate.

Jim

[attachment "Ex. A 4-14-11 Memo.pdf" deleted by Jennifer Bean/NMD/10/USCOURTS]

Jennifer Bean	I am in the process of drafting a detailed respons...	03/15/2018 06:27:23 PM
Lincoln J Sorrell	Jennifer, Subject	03/15/2018 10:46:07 AM

Cari/K'A

This note to be file.

ADD
2/26/18

cc: 4 de de

(Signature)

THIS PAGE LEFT INTENTIONALLY BLANK FOR PURPOSES
OF SEPARATING EACH OF THE COMMUNICATION THREADS



Real time
 Jennifer Bean
 to:
 lincoln_sorrell
 03/23/2018 07:53 PM
 Cc:
 James_Browning
 Hide Details
 From: "Jennifer Bean" <jbean@litsupport.com>
 To: <lincoln_sorrell@nmcourt.fed.us>
 Cc: <James_Browning@nmcourt.fed.us>

1 Attachment



Scan0079.pdf

Here is the hotel bill for last week's motions hearings to be attached to the travel voucher which will be on the printer in Las Cruces where I was sitting to check my email (required on a daily basis) on our three, maybe four, 15 minute breaks for seven weeks. Sure, I could check at lunch, but I need to get out of that courtroom with no windows and recharge for exactly one hour, often to the minute.

Upon our return from Las Cruces, we have been in court in Albuquerque, plus I have been transcribing and delivering the "expedited" over 1000 pages of arguments from last week's motion hearings which have been ordered, as you know, by the Trial 2 attorneys, since they will probably be doing more motions the week of April 2, in preparation for the April 9th two month trial.

I have also received a transcript request for certain witnesses from attorneys from the Trial 3, which they need well before their trial starting July 9. I'm sure they will eat up June with motions.

Plus, as you know, Trial 2 attorneys have requested Trial 1 witnesses on an "expedited" basis, I have been attempting to manage production of over six thousand five hundred pages (6500) that were requested on an "expedited" basis by the Trial 2 attorneys, which I never was made aware of beforehand!!! I have had to pay over \$15,000 to scopers and proofreaders in order to accomplish this for the Trial 2 folks.

Most importantly, I did not see your email about the \$1.50 per page for five feeds until today, due to the fact that my court computer was updating and I was not able to view my emails when I tried to check it this week, and had to call IT.

I prepared a letter along with my attorney, and hand delivered it to Judge Browning today.

I hope that fundamental fairness and the golden rule enters into this equation.

Jen

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cc: A. L. d.

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Las Cruces, NM 88011
Phone (575) 527-6491 - Fax (575) 522-0135
home2lascruces.home2suitesbyhilton.com

Name
Address

BEAN-ALVERSON, JENNIFER
312 LAGUNA BLVD SW
ALBUQUERQUE NM 87104
UNITED STATES OF AMERICA

Room
Arrival Date
Departure Date

422/NKJQG
3/11/2018 8:21:00 PM
3/16/2018 7:43:00 AM

Adult/Child
Room Rate

1/0
94.00

Rate Plan:
HH #
AL:
Car:

GVT
965834202 BLUE

Confirmation Number: 54013202

3/16/2018

DATE	REFERENCE	DESCRIPTION	AMOUNT
3/11/2018	60551	GUEST ROOM	\$94.00
3/11/2018	60551	STATE OCCUPANCY TAX	\$7.81
3/11/2018	60551	LODGERS TAX	\$4.70
3/11/2018	60551	CONVENTION CENTER FEE	\$2.50
3/12/2018	60713	GUEST ROOM	\$94.00
3/12/2018	60713	STATE OCCUPANCY TAX	\$7.81
3/12/2018	60713	LODGERS TAX	\$4.70
3/12/2018	60713	CONVENTION CENTER FEE	\$2.50
3/13/2018	60887	GUEST ROOM	\$94.00
3/13/2018	60887	STATE OCCUPANCY TAX	\$7.81
3/13/2018	60887	LODGERS TAX	\$4.70
3/13/2018	60887	CONVENTION CENTER FEE	\$2.50
3/14/2018	61045	GUEST ROOM	\$94.00
3/14/2018	61045	STATE OCCUPANCY TAX	\$7.81
3/14/2018	61045	LODGERS TAX	\$4.70
3/14/2018	61045	CONVENTION CENTER FEE	\$2.50
3/15/2018	61202	GUEST ROOM	\$94.00
3/15/2018	61202	STATE OCCUPANCY TAX	\$7.81
3/15/2018	61202	LODGERS TAX	\$4.70
3/15/2018	61202	CONVENTION CENTER FEE	\$2.50
3/16/2018	61246	AX *1006	(\$545.05)
		BALANCE	\$0.00

ACCOUNT NO. AX *1006	DATE OF CHARGE 3/16/2018	FOLIO NO. / CHECK NO. 42733 A
CARD MEMBER NAME BEAN-ALVERSON, JENNIFER	AUTHORIZATION 165528	INITIAL
ESTABLISHMENT NO. LOCATION	PURCHASES SERVICES	
	TAXES	
	TIPS MISC.	
CARD MEMBERS SIGNATURE X	TOTAL AMOUNT	-545.05 PAYMENT DUE UPON RECEIPT

MERCHANDISE AND/OR SERVICES PURCHASED ON THIS CARD SHALL NOT BE RESOLD OR RETURNED FOR A CASH REFUND.

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OF SEPARATING EACH OF THE COMMUNICATION THREADS



Jennifer Bean

James O Browning to: Lincoln_Sorrell

03/26/2018 11:42 AM

Cc: Matt Dykman, Cari Waters, Jennifer Bean, Jennifer Bean

Bcc: James O Browning

Please find attached a letter that I received from Jennifer Bean. Please gather all of your emails, Jennifer's emails, my emails, and get these to Cari so she has the full exchange on this. All attachments and related documents should go to her, too.

Thank you.

Jim



Ltr from Jennifer Bean.pdf

cc: 4 la d
Carl
K.A

3/26/18

March 23, 2018

Dear Judge Browning,

I write in response to the several points of view expressed by Court personnel concerning the appropriate pay rate for real time court reporting. Please take into consideration that Ms. Cari Waters agreed with my interpretation in her email of March 12, 2018, wherein she stated, "I think the court reporter is right. Otherwise, I would expect that the second line of the second column would read 'one to four feeds' instead of two to four feeds." Historically, court reporters have been paid more for the original (requesting party) and less for copies to other counsel, as per the payment schedule.

The relevant portion of the payment schedule at issue states:


1 feed: \$3.05 per page; 2-4 feeds: \$2.10 per page; 5 or more feeds: \$1.50 per page.

I have carefully considered the proposal that the schedule be interpreted to allow, for example, only \$2.10 per page for 3 feeds, rather than adding the first feed charge of \$3.05 to the second and third feed charges of \$2.10 each (the "Non-Additive" interpretation). The Non-Additive proposal works an unfairness to me as the Official Court Reporter and it also would not be logical in application.

Under the regulations, the court reporter is responsible for personally purchasing and providing all computers, software, cables, and connections supporting and troubleshooting the use of real time, in addition to providing the labor in highly stressful adversarial proceedings. This means that for 1 feed, paid at \$3.05 per page, I provide the necessary software and computers to support that 1 feed. If I am requested to provide 2 feeds, my equipment charges double. However, my page charges under the Non-Additive interpretation would only be \$4.20 – (2 x \$2.10) rather than \$5.15 by adding the first feed charge to the second feed charge, which comes closer but still does not cover my doubled equipment charges.

Looking further at the payment schedule shows an even greater problem for the court reporter -- the break between 4 feeds and 5 feeds. Obviously, if I am requested to provide 5 feeds, I must provide the computers and support for all 5 feeds, meaning that I have to purchase additional computers. Under the Non-Additive interpretation, I would be able to charge \$7.50 per page (5 x \$1.50). However, under the same Non-Additive proposal, for 4 feeds I would be able to charge \$8.40 (4 x \$2.10). I would be required to charge LESS for five feeds than for four, which makes no sense at all under any interpretation. In contrast, a charge of \$3.05 **plus** \$6.30 **plus** \$1.50 would yield a per-page fee of \$10.85 – again coming closer to while still not covering the quintuple equipment charges required by 5 feeds.

The Northern District of California and the District of Minnesota have interpretations on their websites that are analogous to the payment schedule at issue and which help to answer the current question. Both of the federal districts' rules are identical in this respect. They both are addressing multiple copies of daily transcripts (rather than multiple copies of real time feed), but the concept is informative.


3/25/18

The transcript pricing schedule for the Northern District of California states as to daily delivery:

	Orig	1 st copy	ea add'l copy
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day.	\$6.05	\$1.20	\$.90

The pricing schedule is interpreted by the Court in the following example:

Example 3: Multiple Copies – Daily Delivery

1. The first party orders an original transcript with daily delivery, plus 3 additional copies.
2. The original is \$6.05 per page (e.g., PDF), **plus** 1.20 per page for the first additional copy (e.g., ASCII or TEXT), **plus** .90 per page for the second additional copy (condensed with index), **plus** .90 per page for the third additional copy (e.g., printed copy) for a total of \$9.05 per page x 100 pages = **\$905**.

<http://www.cand.uscourts.gov/transcripts/pricing>; and see the same example in Minnesota at <http://www.mnd.uscourts.gov/cmecf/tr-pricing.shtml>.

I have submitted real time feed charges for SNM Trial 1 for \$9.35 per page for 4 feeds: (\$3.05 [Feed 1] + \$6.30 [Feeds 2, 3, 4]). This charge is a reasonable one based upon both logic and the additive interpretations of dailies provided by the Northern District of California and Minnesota. It also comes closer --- but still does not cover --- the cost of computers and other support required for 4 feeds (and I do not get a discount for buying more than one computer station).

I do want to point out that, although not “certified” and final for appeal purposes, the real time transcripts I provided to the Court and the parties daily during the trial were, in fact, edited almost every night so that the parties were able to make significant use of these transcripts throughout the six-week trial. As you witnessed, the real time was vital for the attorneys, as well as the defendants and others, such as paralegals at counsel table, to view the multitude of extensive and adversarial bench conferences. I was not asked to provide real time during voir dire, however, many attorneys were hovering around my computer and the CRD’s computer to view the many bench conferences we had during jury selection over a two-day period because they were unable to squeeze in to hear the bench conferences.

Thank you for your consideration and analysis. It is my hope that the “Non-Additive” interpretation will be rejected in favor of a payment interpretation that is much more logical and fairer to the court reporter involved.

As I have mentioned several times, I need to purchase a significant number of additional computers and equipment for Trial 2, since there are twice as many defendants, and I will need time to load software and configure and troubleshoot, so I hope to get this resolved as soon as possible, since our trial starts April 9, and we will probably be heading down to Las Cruces for more pretrial motions any day. Also, since the Trial 2 folks have ordered thousands of pages to be produced on an expedited basis, I have had to expend thousands of dollars for scopers and proofreaders, in order to accomplish this feat.

Sincerely,

Jennifer Bean



THIS PAGE LEFT INTENTIONALLY BLANK FOR PURPOSES
OF SEPARATING EACH OF THE COMMUNICATION THREADS



Jennifer Bean

James O Browning to: Cari Waters

03/26/2018 11:52 AM

Cc: Matt Dykman, Lincoln_Sorrell, Jennifer Bean, Jennifer Bean, Estelle
Hamilton

Bcc: James O Browning

Please find attached the documents that I relied upon to make my ruling. I have highlighted the most important language.

Jim



Pages re Realtime Services.pdf

cc: 4 la 2
Carl
K'A

QAD
3/26/18

Carl/K'A

File.

AD
3/26/18



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

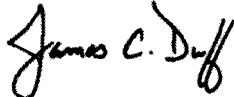
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

April 14, 2011

MEMORANDUM

To: Chief Judges, United States Courts
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts

From: James C. Duff 

RE: AMENDMENT TO MAXIMUM FEES FOR REALTIME SERVICES **(INFORMATION)**

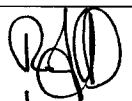
At its March 2011 session, the Judicial Conference amended the maximum fees for realtime services. The amended fees are based on the number of realtime connections (feeds) provided by a certified realtime court reporter as follows:

- One feed, the ordering party pays \$3.05 per page;
- Two to four feeds, each party receiving a feed pays \$2.10 per page; or
- Five or more feeds, each party receiving a feed pays \$1.50 per page.

Under the new maximum fees for realtime services, all parties to the case who receive a realtime feed pay the same amount for the services that are received. If a court reporter provides two or more feeds to the same party to the case, the reporter may charge for each feed provided based on the total number of feeds ordered.

Each court may adopt a schedule of transcript fee rates subject to the maximum rates established by the Judicial Conference. Realtime services ordered prior to the date of a court's adoption of the new rates should be billed at the rates in effect at the time the realtime order was placed with the official court reporter. Court reporter contracts may be adjusted in accordance with the terms and conditions of the contract agreement. A revised Schedule of Maximum Rates is available at: http://jnet.ao.dcn/District/Court_Reporting/Transcript_Fees.html.

If you have any questions concerning the amended maximum fees for realtime services, please contact Robin Cole in the District Court Administration Division at 202-502-3289.


3/26/18

§ 530 Fees**§ 530.10 Authority**

- (a) Pursuant to 28 U.S.C. § 753(f), each reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. JCUS-MAR 80, pp. 17-18. **See:** Current maximum transcript rates on the Court Reporting page of JNet.
- (b) Each district court must adopt a schedule of transcript fees for reporters and transcribers, subject to maximum rates established by the Judicial Conference.
 - (1) The Conference has established six transcript categories (**see:** § 510.17) based on delivery times and whether the transcript is certified or a realtime translation, and has set a maximum rate for each.
 - (2) The parties, court reporter, transcriber, and the court may not negotiate a higher rate without Judicial Conference approval; however, in exceptional circumstances the Director of the AO may authorize higher original transcript rates for staff reporters (**see:** § 530.40).
 - (3) Fees may be negotiated lower than the court approved rates. In setting the transcript rates to be charged by the court reporters in each area, the district court may look to comparable services rendered in the state courts and consider setting the transcript rates in their courts to coincide with any lower comparable state rate.

§ 530.15 Scope

The maximum rates adopted by the Judicial Conference are the maximum rates that can be charged by:

- official staff,
- temporary,
- combined-position,
- contract,
- substitute reporters, and
- transcribers.

RAD
3/26/18



Home » Court Services » District Clerks' Offices » Court Reporting » Transcript Fees » Maximum Transcript Rates

MAXIMUM TRANSCRIPT RATES

	Original	First Copy to Each Party	Each Additional Copy to the Same Party
Ordinary Transcript (30 day) A transcript to be delivered within thirty (30) calendar days after receipt of an order.	\$3.65	\$.90	\$.60
14-Day Transcript A transcript to be delivered within fourteen (14) calendar days after receipt of an order.	\$4.25	\$.90	\$.60
Expedited Transcript (7 day) A transcript to be delivered within seven (7) calendar days after receipt of an order.	\$4.85	\$.90	\$.60
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day.	\$6.05	\$1.20	\$.90
Hourly Transcript A transcript of proceedings ordered under unusual circumstances to be delivered within two (2) hours.	\$7.25	\$1.20	\$.90
Realtime Transcript A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.	One feed, ¹ \$3.05 per page; two-to-four feeds, \$2.10 per page; five or more feeds, \$1.50 per page.		

¹A realtime "feed" is the electronic data flow from the court reporter to the computer of each person or party ordering and receiving the realtime transcription in the courtroom.

Note: "a rate is charged per page" is phrased singularly indicating that only one rate applies

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3/26/18

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3/26/18

§ 530.50 Descriptions of Fees for Services	
Item	Description
(c) 14-Day, Expedited, Daily, and Hourly Transcripts	In the case of 14-day, expedited, daily, and hourly transcripts, the approved fees are to cover all costs of transcript production, including payments to extra reporters, typists, and transcribers to help produce the transcript.
(d) Copy Fee	A copy fee is charged if the party orders and receives a copy.
(e) Fee for Sale of Transcript on Electronic Media	The rates allowed for electronic media transcripts are the same as those allowed for paper transcripts whether they represent originals, first copies, or additional copies. No additional charge is permitted for the cost of the electronic media.
(f) Compressed Transcripts	The maximum per page rate for each compressed original or copy of a transcript is the same as that for a full-size transcript.
(g) Realtime Feed	For realtime translation services, a rate is charged per page by the certified realtime reporter.

For fee calculation examples, **see:** Fee Calculation Examples on JNet.

§ 530.50		ded
Item		
(a) Transcript Copy filed with the Court	Note: that the "Realtime Transcript" row only contains an	ed to the clerk of § 290.20.20(b).
(b) Judge's Copy	A "original" rate and not a "copy" rate indicates that a single rate applies	rtified copy delivered ff court reporter may or any certified existence of an order
(c) Viewing the Record by a Party	A c §	xamined without See: <u>Guide, Vol. 6,</u>
(d) Postage	F therefore, the court reporter or transcriber may not charge for ordinary postage. However, when the party requests expedited delivery, the court reporter or transcriber may bill the party for the difference between ordinary postage cost and the cost for expedited delivery. See: <u>Guide, Vol. 6, § 260.50.20.</u>	

QAD
3/26/18



Home » Court Services » District Clerks' Offices » Court Reporting » Transcript Fees » Fee Calculation Examples

FEE CALCULATION EXAMPLES

a. A defense attorney in a multi-defendant CJA case orders an original and two copies of an ordinary transcript of 100 pages.

The court reporter may charge the party the original ordinary transcript rate per page for the original transcript. At the request of the CJA attorney, the original transcript may be delivered in paper copy or electronic format for the defender to make and provide copies to any other CJA parties in the case needing a copy.

Additional paper copies may be provided to other defense counsel at the commercially competitive copy rate as approved by the court. In this example:

- the charge for the original ordinary transcript would be: $\$3.65 \times 100 \text{ pages} = \365 ;
- the charge for the first copy, billed at the commercially competitive rate, would be: (estimated) $\$.10 \times 100 \text{ pages} = \10 ; and
- the charge for the second copy, billed at the commercially competitive rate would be: (estimated) $\$.10 \times 100 \text{ pages} = \10 .

b. A party in a civil case requests daily transcript copy and two copies of a trial generating 200 pages per day.

1. The charge to the private attorney would be the:

- original daily transcript rate ($\$6.05$ per page in this example) for the original;
- first copy daily transcript rate ($\$1.20$ per page in this example); and
- additional copy daily transcript rate ($\$.90$ per page in this example) for the second (multi-page transcript) copy to the same attorney.

2. The charges per day would be:

- $\$6.05 \times 200 \text{ pages} = \$1,210$ for the daily copy;
- $\$1.20 + \$.90 = \$2.10 \times 200 \text{ pages} = \420 for two copies per day.

3. Any copies to opposing counsel would be charged at $\$1.20$ for the first copy and $\$.90$ per page for additional paper or electronic copies.

c. A defense attorney orders a realtime transcript feed from a certified realtime reporter. The realtime feed generates 150 pages of transcript. The certified realtime reporter charges the current rate per page of realtime transcript for one feed, based on the tiered rate structure.


The charge to the defense attorney would be: $\$3.05 \times 150 \text{ pages} = \457.50 for one realtime transcript feed.

d. A defense attorney orders a realtime transcript feed from a certified realtime reporter. The opposing counsel orders two feeds for the same realtime transcript. The realtime feed generates 150 pages of transcript. The certified realtime reporter charges an equal rate per page of realtime transcript for each feed ordered, based on the tiered rate structure.

1. The charge to the defense attorney would be: $\$2.10 \times 150 \text{ pages} = \315 for one realtime transcript feed.

2. The charge to the opposing counsel for two realtime feeds would be:

- $\$2.10 \times 150 \text{ pages} = \315 for the first feed;
- $\$2.10 \times 150 \text{ pages} = \315 for the second feed;
- totaling $\$630$ for both feeds.


3/26/18

§ 550 Criminal Justice Act (CJA) and In Forma Pauperis Proceedings

Court reporters are to be paid for transcripts provided to parties proceeding under the CJA and to parties allowed to appeal in forma pauperis in civil cases from separate funds appropriated for those purposes at rates not to exceed those established by the Judicial Conference. 18 U.S.C. § 3006A(d)(1), 28 U.S.C. § 753(f), 28 U.S.C. § 1915(c).

§ 550.40 Transcripts

In the absence of prior special authorization, trial transcripts should exclude:

- prosecution and defense opening statements,
- prosecution argument,
- defense argument,
- prosecution rebuttal,
- voir dire, and
- the jury instructions.

§ 550.40.10 Requisition for Payment by Panel Attorneys

See: Guide, Vol. 7A, § 320.30.10 (Authorization and Payment).

§ 550.40.20 Prohibition on Routine Apportionment of Accelerated Transcript Costs

See: Guide, Vol. 7A, § 320.30.20 (Accelerated Transcript Costs).

§ 550.40.30 Transcripts in Multi-Defendant Cases

- (a) In multi-defendant cases involving CJA defendants, no more than one certified transcript should be purchased from the court reporter on behalf of CJA defendants.
 - (1) CJA multi-defendant transcript orders may be requested in electronic format to simplify making multiple copies.
 - (2) Alternatively, one of the CJA counsel or the clerk of court should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved.
 - (3) The cost of such duplication will be charged to the CJA appropriation.
 - (4) A court reporter could also furnish duplication services at the commercially competitive rate. JCUS-SEP 87, p. 95. **See:** Guide.

RAM
3/26/18

§ 753. Reporters, 28 USCA § 753

(f) Each reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. He shall not charge a fee for any copy of a transcript delivered to the clerk for the records of court. Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question). The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States.

(g) If, upon the advice of the chief judge of any district court within the circuit, the judicial council of any circuit determines that the number of court reporters provided such district court pursuant to subsection (a) of this section is insufficient to meet temporary demands and needs and that the services of additional court reporters for such district court should be provided the judges of such district court (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract, without regard to section 6101(b) to (d) of title 41, with any suitable person, firm, association, or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of the Administrative Office finds, after consultation with the chief judge of the district court, will best serve the needs of such district court.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 921; Oct. 31, 1951, c. 655, § 46, 65 Stat. 726; June 28, 1955, c. 189, § 3(c), 69 Stat. 176; Pub.L. 85-462, § 3(c), June 20, 1958, 72 Stat. 207; Pub.L. 85-508, § 12(e), July 7, 1958, 72 Stat. 348; Pub.L. 86-568, Title I, § 116(c), July 1, 1960, 74 Stat. 303; Pub.L. 89-163, Sept. 2, 1965, 79 Stat. 619; Pub.L. 89-167, Sept. 2, 1965, 79 Stat. 647; Pub.L. 91-272, § 14, June 2, 1970, 84 Stat. 298; Pub.L. 91-545, Dec. 11, 1970, 84 Stat. 1412; Pub.L. 97-164, Title IV, § 401(a), Apr. 2, 1982, 96 Stat. 56; Pub.L. 104-317, Title III, § 305, Oct. 19, 1996, 110 Stat. 3852; Pub.L. 111-350, § 5(g)(4), Jan. 4, 2011, 124 Stat. 3848.)

Notes of Decisions (221)

Footnotes

1 So in original. Probably should be "or as".

28 U.S.C.A. § 753, 28 USCA § 753

Current through P.L. 115-132.

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240B
3/26/18

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Re: Jennifer Bean

Cari Waters to: James O Browning

03/26/2018 12:16 PM

Cc: Estelle Hamilton, Jennifer Bean, Jennifer Bean, Lincoln_Sorrell, Matt Dykman

Thanks, Judge Browning. I'll be in touch. Cari

Cari Dangerfield Waters
Case Budgeting Attorney
U.S. Court of Appeals for the Tenth Circuit
1823 Stout Street
Denver, CO 80257
Tel: (303) 335-2826

James O Browning

Please find attached the documents that I relied...

03/26/2018 11:52:26 AM

From: James O Browning/NMD/10/USCOURTS
To: Cari Waters/CA10/10/USCOURTS@USCOURTS
Cc: Matt Dykman/NMD/10/USCOURTS@USCOURTS, Lincoln_Sorrell@nmcourt.fed.us, Jennifer Bean/NMD/10/USCOURTS@USCOURTS, Jennifer Bean <jbean@litsupport.com>, Estelle Hamilton/NMD/10/USCOURTS@USCOURTS
Date: 03/26/2018 11:52 AM
Subject: Jennifer Bean

Please find attached the documents that I relied upon to make my ruling. I have highlighted the most important language.

Jim


[attachment "Pages re Realtime Services.pdf" deleted by Cari Waters/CA10/10/USCOURTS]

cc: 4 del
Cal
K.A.
PJD
3/26/18

CW/K.A.
E. Ste.
AD
3/26/18

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OF SEPARATING EACH OF THE COMMUNICATION THREADS



Re: Fw: Jennifer Bean 
Lincoln J Sorrell to: James O Browning

03/26/2018 01:13 PM

Judge Browning,

Yes, sir.

Lincoln Sorrell
Deputy-in-Charge
US District Court, District of New Mexico
100 N. Church St., Ste. 280
Las Cruces, New Mexico 88001
(575) 528-1417
(575) 323-4793

James O Browning

----- Forwarded by James O Browning/NMD/10/...

03/26/2018 11:49:42 AM

From: James O Browning/NMD/10/USCOURTS
To: Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS
Date: 03/26/2018 11:49 AM
Subject: Fw: Jennifer Bean

----- Forwarded by James O Browning/NMD/10/USCOURTS on 03/26/2018 11:49 AM -----

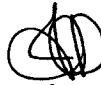
From: James O Browning/NMD/10/USCOURTS
To: Lincoln_Sorrell@nmcourt.fed.us
Cc: Matt Dykman/NMD/10/USCOURTS@USCOURTS, Cari Waters/CA10/10/USCOURTS@USCOURTS, Jennifer Bean/NMD/10/USCOURTS@USCOURTS, Jennifer Bean <jbean@litsupport.com>
Date: 03/26/2018 11:42 AM
Subject: Jennifer Bean

Please find attached a letter that I received from Jennifer Bean. Please gather all of your emails, Jennifer's emails, my emails, and get these to Cari so she has the full exchange on this. All attachments and related documents should go to her, too.

Thank you.

Jim

[attachment "Ltr from Jennifer Bean.pdf" deleted by Lincoln J Sorrell/NMD/10/USCOURTS]

File this, too.

3/28/18

cc: 4 Jan 1
Cal
K'A

THIS PAGE LEFT INTENTIONALLY BLANK FOR PURPOSES
OF SEPARATING EACH OF THE COMMUNICATION THREADS



Jennifer Bean

James O Browning to: Cari Waters

03/28/2018 01:08 PM

Cc: Matt Dykman, Lincoln J Sorrell, K'Aun Wild, Carol A Bevel-Erwin,
Jennifer Bean, Jennifer Bean, Estelle Hamilton

Please find two more memoranda that I have prepared on the reimbursement topic. The attachments are highlighted.

The first deals with Jennifer's misunderstanding, I believe, about her responsibility for providing all hardware for real time services.

The second deals with Jennifer's questions about "additional electronic copies."

Jim



Memo 1 w-attachments.pdf



Memo 2 w-attachments.pdf

Jennifer's March 23, 2018 Letter indicates that she is responsible for providing all hardware for realtime services. She is incorrect, because the Guide to Judiciary Policy states that, "[a]ll parties requesting realtime services will be responsible for providing their own computers, viewer/annotation software, and monitors." Guide to Judiciary Policy, Vol. 6 § 320.30(a). "Upon request of the parties, reporters may make equipment and software available." Guide to Judiciary Policy, Vol. 6 § 302.30(b)(emphasis added). The court reporter is responsible for providing only "wiring necessary for his or her equipment," Guide to Judiciary Policy, Vol. 6 § 320.30(c), and "all necessary personal equipment and software," Guide to Judiciary Policy, Vol. 6 § 320.50.10(c)(emphasis added). The Guide to Judiciary Policy also "specifies which components of the realtime system are to be purchased and maintained by the court reporter, and which components are to be provided by the court." Guide to Judiciary Policy, Vol. 6 § 320.70.50. The Guide to Judiciary Policy is silent, however, on whether a court reporter who elects, under § 320.30(b), to provide hardware to the parties requesting realtime can charge the parties for that hardware in addition to charging them for the realtime feed that the reporter's hardware enables the parties to purchase. See Guide to Judiciary Policy, Vol. 6 § 530.50 (describing fees for services); id. § 530.55 (listing items for which no fee may be charged); id. 530. 60 (listing permissible extra fees).

March 23, 2018

Dear Judge Browning,

I write in response to the several points of view expressed by Court personnel concerning the appropriate pay rate for real time court reporting. Please take into consideration that Ms. Cari Waters agreed with my interpretation in her email of March 12, 2018, wherein she stated, "I think the court reporter is right. Otherwise, I would expect that the second line of the second column would read 'one to four feeds' instead of two to four feeds." Historically, court reporters have been paid more for the original (requesting party) and less for copies to other counsel, as per the payment schedule.

The relevant portion of the payment schedule at issue states:

1 feed: \$3.05 per page; 2-4 feeds: \$2.10 per page; 5 or more feeds: \$1.50 per page.

I have carefully considered the proposal that the schedule be interpreted to allow, for example, only \$2.10 per page for 3 feeds, rather than adding the first feed charge of \$3.05 to the second and third feed charges of \$2.10 each (the "Non-Additive" interpretation). The Non-Additive proposal works an unfairness to me as the Official Court Reporter and it also would not be logical in application.

Under the regulations, the court reporter is responsible for personally purchasing and providing all computers, software, cables, and connections supporting and troubleshooting the use of real time, in addition to providing the labor in highly stressful adversarial proceedings. This means that for 1 feed, paid at \$3.05 per page, I provide the necessary software and computers to support that 1 feed. If I am requested to provide 2 feeds, my equipment charges double. However, my page charges under the Non-Additive interpretation would only be \$4.20 – (2 x \$2.10) rather than \$5.15 by adding the first feed charge to the second feed charge, which comes closer but still does not cover my doubled equipment charges.

Looking further at the payment schedule shows an even greater problem for the court reporter -- the break between 4 feeds and 5 feeds. Obviously, if I am requested to provide 5 feeds, I must provide the computers and support for all 5 feeds, meaning that I have to purchase additional computers. Under the Non-Additive interpretation, I would be able to charge \$7.50 per page (5 x \$1.50). However, under the same Non-Additive proposal, for 4 feeds I would be able to charge \$8.40 (4 x \$2.10). I would be required to charge LESS for five feeds than for four, which makes no sense at all under any interpretation. In contrast, a charge of \$3.05 **plus** \$6.30 **plus** \$1.50 would yield a per-page fee of \$10.85 – again coming closer to while still not covering the quintuple equipment charges required by 5 feeds.

The Northern District of California and the District of Minnesota have interpretations on their websites that are analogous to the payment schedule at issue and which help to answer the current question. Both of the federal districts' rules are identical in this respect. They both are addressing multiple copies of daily transcripts (rather than multiple copies of real time feed), but the concept is informative.

RAB
3/25/18

The transcript pricing schedule for the Northern District of California states as to daily delivery:

Daily Transcript

A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day.

Orig	1 st copy ea	
	add'l	
	copy	
\$6.05	\$1.20	\$.90

The pricing schedule is interpreted by the Court in the following example:

Example 3: Multiple Copies – Daily Delivery

1. The first party orders an original transcript with daily delivery, plus 3 additional copies.
2. The original is \$6.05 per page (e.g., PDF), plus 1.20 per page for the first additional copy (e.g., ASCII or TEXT), plus .90 per page for the second additional copy (condensed with index), plus .90 per page for the third additional copy (e.g., printed copy) for a total of \$9.05 per page x 100 pages = \$905.

<http://www.cand.uscourts.gov/transcripts/pricing>; and see the same example in Minnesota at <http://www.mnd.uscourts.gov/cmecf/tr-pricing.shtml>.

I have submitted real time feed charges for SNM Trial 1 for \$9.35 per page for 4 feeds: (\$3.05 [Feed 1] + \$6.30 [Feeds 2, 3, 4]). This charge is a reasonable one based upon both logic and the additive interpretations of dailies provided by the Northern District of California and Minnesota. It also comes closer --- but still does not cover --- the cost of computers and other support required for 4 feeds (and I do not get a discount for buying more than one computer station).

I do want to point out that, although not “certified” and final for appeal purposes, the real time transcripts I provided to the Court and the parties daily during the trial were, in fact, edited almost every night so that the parties were able to make significant use of these transcripts throughout the six-week trial. As you witnessed, the real time was vital for the attorneys, as well as the defendants and others, such as paralegals at counsel table, to view the multitude of extensive and adversarial bench conferences. I was not asked to provide real time during voir dire, however, many attorneys were hovering around my computer and the CRD’s computer to view the many bench conferences we had during jury selection over a two-day period because they were unable to squeeze in to hear the bench conferences.

Thank you for your consideration and analysis. It is my hope that the “Non-Additive” interpretation will be rejected in favor of a payment interpretation that is much more logical and fairer to the court reporter involved.

As I have mentioned several times, I need to purchase a significant number of additional computers and equipment for Trial 2, since there are twice as many defendants, and I will need time to load software and configure and troubleshoot, so I hope to get this resolved as soon as possible, since our trial starts April 9, and we will probably be heading down to Las Cruces for more pretrial motions any day. Also, since the Trial 2 folks have ordered thousands of pages to be produced on an expedited basis, I have had to expend thousands of dollars for scopers and proofreaders, in order to accomplish this feat.

Sincerely,

Jennifer Bean

for disabled bankruptcy judges to use realtime reporting systems. JCUS-SEP 98 pp. 42-43.

§ 320.20.10 Certified Realtime Reporters

- (a) The Conference recognized as certified realtime reporters those official court reporters who have successfully completed the Certified Realtime Reporter examination offered by the National Court Reporters Association, or who have passed an equivalent qualifying examination, and permitted certified realtime reporters to sell realtime translation at rates approved by the Conference. JCUS-MAR 96, p. 26. For availability and scheduling considerations, see: Guide, Vol. 6, § 290.30.45.
- (b) Contract court reporters may have also taken and passed the Certified Realtime Reporter examination offered by the National Court Reporters Association, or an equivalent qualifying examination.

§ 320.30 Equipment

- (a) All parties requesting realtime services will be responsible for providing their own computers, viewer/annotation software, and monitors.
- (b) Upon the request of the parties, reporters may make equipment and software available.
- (c) The certified realtime reporter will provide wiring necessary for his or her equipment. See: Guide, Vol. 6, § 320.70.30 and Appx. 3A (Realtime System Technical Requirements).

§ 320.40 Waiver of Responsibility

- (a) It is the AO's Office of the General Counsel's opinion that the court reporter is not at risk for personal liability arising from inaccuracies in realtime translation.
- (b) To avoid misunderstandings, realtime services should be presented with written warnings that they are unedited and subject to later revision. See: § 320.50.50 (Realtime Disclaimer).
- (c) The Federal Tort Claims Act, 28 U.S.C. § 2671 et seq., renders the government exclusively liable for harm caused by the negligent performance of official duties by a federal employee. See: Guide, Vol. 20, Ch. 2 (Federal Tort Claims).

§ 320.50 Realtime Reporting Standards

§ 320.50.10 General Policy

- (a) Effective June 1, 1996, the Judicial Conference established a new transcript category called "realtime unedited transcript." JCUS-MAR 96, p. 26.
- (b) Realtime includes the following services:
 - The instantaneous translation of the proceedings on a computer monitor;
 - The ability to scroll forward and backward, search the record for key words or phrases and mark portions of the text using viewer/annotation software; and
 - The delivery of realtime translation and appended notes electronically during or immediately following adjournment.
- (c) When realtime services are requested by a party to the case, a certified realtime reporter may charge and collect the per page rate for the realtime translation. Reporters are required to provide all necessary personal equipment and software.
- (d) Realtime reporting services offer several advantages including, but not limited to, the following:
 - The software enables court reporters to display the English text translation instead of stenographic symbols;
 - Attorneys are able to use realtime as a litigation aid for purposes of trial proceedings;
 - Judges and court staff can work with increased efficiency with instantaneous access to the realtime translation; and
 - Prior to, during, or after the proceedings, attorneys and judges can insert issue codes into their realtime file for later reference.
- (e) Realtime translation may not be used for any purpose that requires a certified transcript of a proceeding.
- (f) At its September 2011 session, the Conference amended the maximum realtime translation rate policy adopted in March 1999 to eliminate the requirement that a litigant who orders realtime services in the courtroom must purchase a certified transcript (original or copy) of the same pages of realtime translation at the regular rates. JCUS-SEP 11, pp. 30-31.

§ 320.70.50 Responsibility for Realtime-Related Equipment

The following allocation of costs specifies which components of the realtime system are to be purchased and maintained by the court reporter, and which components are to be provided by the court:

- (a) Except to the extent the court has installed the router with built-in switch or equivalent technology as permanent infrastructure, regardless of who receives realtime reporting services, the court reporter is responsible for the acquisition, installation, and maintenance of:
 - (1) the reporter's realtime translation system and ancillary components;
 - (2) all necessary wiring, wireless technologies, and data communications connections (including any necessary connectors and adapters) to provide realtime reporting services between the court reporter's system and all locations serving a paying or potential paying customer;
 - (3) any equipment (e.g., personal computers, video monitors) or software (viewer/annotation software) provided by the court reporter to a paying customer or potential paying customer; and
 - (4) the router with built-in switch or equivalent technology
- (b) The court is responsible for the acquisition, installation, and maintenance of:
 - (1) all necessary wiring, or wireless technologies, including any necessary connectors and adapters, between the router with built-in switch or equivalent technology and the judge's bench, law clerk and courtroom deputy desks, witness stand, jury box, and public viewing area;
 - (2) any computers or monitors and appropriate realtime viewer/annotation software located at the judge's bench and law clerk/courtroom deputy desks; and
 - (3) any monitors for the witness stand, jury box, and public viewing area, and the computer used for video distribution to the monitors.

Note: In those courthouses under construction or undergoing major courtroom renovations, the court will provide conduits and electrical outlets for realtime reporting services at all appropriate locations in the courtroom. If the court chooses to install the router with built-in switch or equivalent technology as part of the permanent infrastructure to all

potential users of realtime reporting, the judiciary will pay for the router with built-in switch or equivalent technology and installation.

§ 320.70.60 Compensation for Realtime Reporting Services

- (a) Pursuant to 28 U.S.C. § 753(f), the Judicial Conference sets maximum fees court reporters may charge for preparing and providing realtime and official transcripts to non-judiciary persons. **See:** Maximum Transcript Rates on JNet.
- (b) If a certified realtime reporter chooses to offer realtime reporting services, all requesting parties to a court proceeding will be able to capture in realtime the unedited, uncertified transcription on their personal computers during court proceedings. The court (e.g., the judge, law clerk, and courtroom deputy) will have the option of being provided realtime reporting services without additional remuneration to the staff or contract court reporter.

§ 350 Electronic Sound Recording

§ 350.10 Authority for Use of Electronic Sound Recording

- (a) In September, 1983, following a study by the Federal Judicial Center, the Judicial Conference authorized the use of electronic sound recording of court proceedings, effective January, 1984. JCUS-SEP 83, p. 48.
- (b) In September, 1999, the Judicial Conference approved digital audio recording technology as a method of taking the official record in federal court proceedings, to be implemented upon the development of guidelines by the Director of the AO. JCUS-SEP 99, pp. 56-57.
- (c) Electronic sound recording equipment must be multi-channel audio equipment. For analog and digital electronic sound recording equipment specifications and standards, **see:** Guide, Vol. 6, Appx. 3B and Appx. 3C.
- (d) Change in Method Elected
 - (1) In the event a judge changes the election of the method of recording court proceedings from official court reporters to electronic sound recording systems, funding for the court reporter will be discontinued 90 days from the date of election to electronic sound recording systems.
 - (2) One additional period of up to 120 days beyond the original 90-day period will be allowed upon certification by the chief judge of the affected court to the circuit judicial council that additional staff

- (i) A comparison of total compensation of court reporters in the local or state courts including:
 - salary,
 - benefits,
 - private work,
 - transcript income, and
 - net income from official transcript sales.
 - (ii) The policies of the local and state courts that affect total compensation for court reporter work should be identified, including salary schedules, benefits, work hours, transcript format and whether transcript production is subsidized or supported by the purchase of equipment or supplies.
- (C) Using Form AO 40A (Attendance and Transcripts of United States Court Reporters) and Form AO 40B (Statement of Earnings of United States Court Reporters) reports, an analysis of total income of staff reporters from salary, transcript sales, private work, and in-court hours of service over a three to five year period.
- (b) The AO will:
- (1) compare the salary, transcript income, and margins of profit of the district's reporters by using reporter statements of earnings, to those of other reporters in other federal courts and nationally;
 - (2) evaluate the court reporter turnover; and
 - (3) notify the chief judge whether the increase is justified and, if justified, the effective date of the rate change.

§ 530.50 Descriptions of Fees for Services	
Item	Description
(a) Transcript Production	The fees cover all costs of transcript production.
(b) Original Fee	For any given proceeding/date there can only be one original charge. All other transcripts of the same proceeding must be at the copy rates. The original fee rate may not be charged to parties who order a transcript that was already produced at the request of a judge.

§ 530.50 Descriptions of Fees for Services	
Item	Description
(c) 14-Day, Expedited, Daily, and Hourly Transcripts	In the case of 14-day, expedited, daily, and hourly transcripts, the approved fees are to cover all costs of transcript production, including payments to extra reporters, typists, and transcribers to help produce the transcript.
(d) Copy Fee	A copy fee is charged if the party orders and receives a copy.
(e) Fee for Sale of Transcript on Electronic Media	The rates allowed for electronic media transcripts are the same as those allowed for paper transcripts whether they represent originals, first copies, or additional copies. No additional charge is permitted for the cost of the electronic media.
(f) Compressed Transcripts	The maximum per page rate for each compressed original or copy of a transcript is the same as that for a full-size transcript.
(g) Realtime Feed	For realtime translation services, a rate is charged per page by the certified realtime reporter.

For fee calculation examples, **see:** Fee Calculation Examples on JNet.

§ 530.55 Items for Which No Fee May Be Charged	
Item	Description
(a) Transcript Copy filed with the Court	No fee may be charged for any transcript provided to the clerk of court as the court's copy. See: <u>Guide, Vol. 6, § 290.20.20(b)</u> .
(b) Judge's Copy	A judge-ordered copy is not the same as the certified copy delivered to the clerk for the records of the court. The staff court reporter may not charge a party, including the government, for any certified transcript provided to a judge regardless of the existence of an order so granting. See: <u>§ 530.30</u> .
(c) Viewing the Record by a Party	A transcript on file in the clerk's office may be examined without charge to a party or other member of the public. See: <u>Guide, Vol. 6, § 290.20.30(e)</u> .
(d) Postage	Postage costs are considered an ordinary business expense; therefore, the court reporter or transcriber may not charge for ordinary postage. However, when the party requests expedited delivery, the court reporter or transcriber may bill the party for the difference between ordinary postage cost and the cost for expedited delivery. See: <u>Guide, Vol. 6, § 260.50.20</u> .

§ 530.55 Items for Which No Fee May Be Charged	
Item	Description
(e) Keyword Indexes	The index pages may be billed at the page rate, but no charge is permitted in addition to the normal page rates for keyword indexing services. See: <u>§ 520.46.30</u> .
(f) Cover	The cover is a required part of the transcript and the court reporter may not charge extra for the transcript cover. See: <u>§ 520.53</u> .
(g) Certification	The certification is a required part of the transcript and the court reporter may not charge extra for the certification. See: <u>§ 520.63</u> .
(h) Canceled Orders	When a transcript order is canceled, only the pages produced may be charged. There is no charge for pages not produced. If a deposit was received and no pages were produced prior to the cancellation, the full deposit must be returned to the party. Any pages that were produced must be provided to the ordering party and a certified transcript filed with the clerk of court.
(i) Credit Card Fees, Service Fees, or Late Charges	Credit card fees accrued by a court reporter or transcriber who accepts payment via credit card may not be charged to the ordering parties. Additionally, no other service fees, convenience fees, or late payment penalties may be charged to the ordering parties.

§ 530.60 Permissible Extra Fees**§ 530.60.10 Subsistence Cost for Reporters**

- (a) In areas where the court's reporter may need to hire reporters from outside the community area to help produce 14-day, expedited, daily, or hourly transcripts, the reporter may bill the party for the subsistence costs of other reporters or auxiliary personnel.
- (b) These costs are authorized up to the amount of travel subsistence that a government employee may be reimbursed for the same travel.
See: Guide, Vol. 19, Ch. 4 (Judiciary Staff Travel Regulations).
- (c) Compensation for auxiliary personnel as an attendance fee is not billable to the party.

§ 530.60.20 Payments Returned for Insufficient Funds (Bad Check Fees)

- (a) If authorized by the court, the court reporter may request the ordering party to reimburse the penalties associated with payment returned for insufficient funds from the ordering party.

Jennifer's email contains a reference to "additional electronic copies," a phrase which appears in the fee calculation examples on JNET regarding charges for daily transcripts. That language applies to certified transcripts, although a different per-page rate would apply for expedited, 14-day, and ordinary transcripts. That language does not apply to realtime transcripts, because the maximum transcript rates on JNET includes no charge for realtime transcript "copies." Further, "[t]he primary purpose of realtime translation is to provide access to a draft transcript of the proceedings on electronic media at the end of each day," so Jennifer is not providing an additional service by providing an electronic draft transcript to the parties at the end of each day. Guide to Judicial Policy, Vol. 6 § 320.50.40(a)(1). See id. § 320.70.60(b) ("If a certified realtime reporter chooses to offer realtime reporting services, all requesting parties to a court proceeding will be able to capture in realtime the unedited, uncertified transcription on their personal computers during court proceedings.")

I believe that Jennifer edits the electronic transcripts she sends the parties -- and that editing is not included as part of her realtime translation services -- but unless she certifies those transcripts they are not ordinary, 14-day, expedited, daily, or hourly transcripts. See Guide to Judicial Policy, Vol. 6 § 320.63.10(a) ("The court reporter or transcriber is to authenticate the original transcript and each copy with a certification on the last page."). See also id. § 320.50.30("The realtime translation should not include ... a certification ..."). If the transcript Jennifer sends to the parties each night is not certified it must be a realtime transcript, because "[n]o other transcript categories are authorized." Guide to Judicial Policy, Vol. 6 § 510.17. Consequently, she can only charge the fees associated with realtime and not an additional fee for the edited copy she delivers nightly.



RE: Jennifer Bean

Jennifer Bean to: James_Browning, Cari_Waters

03/26/2018 12:11 PM

Cc: Matt_Dykman, Lincoln_Sorrell, Jennifer_Bean, Estelle_Hamilton

I really appreciate everyone taking the time to help figure this out. I don't remember ever seeing these attachments before this issue came up.

A factor that I feel must be considered is that the five stations not only received "realtime feed," but all five attorneys received an "additional electronic transcript" every evening. According to the transcript fee calculations attached to this email, it looks like that would be an additional .90 per page for what is entitled "additional electronic copy." So now I'm really confused.

I am simply trying to clarify this and really do appreciate everyone's input!

Jennifer

-----Original Message-----

From: James_Browning@nmcourt.fed.us [mailto:James_Browning@nmcourt.fed.us]

Sent: Monday, March 26, 2018 11:52 AM

To: Cari_Waters@ca10.uscourts.gov

Cc: Matt_Dykman@nmcourt.fed.us; Lincoln_Sorrell@nmcourt.fed.us;

Jennifer_Bean@nmcourt.fed.us; Jennifer Bean <jbean@litsupport.com>;

Estelle_Hamilton@nmcourt.fed.us

Subject: Jennifer Bean

Please find attached the documents that I relied upon to make my ruling. I have highlighted the most important language.

Jim

(See attached file: Pages re Realtime Services.pdf)

Click below to report this message as spam

for James_Browning@nmcourt.fed.us

<http://quarantine.nmd.circ10.dcn/.rs?id2=2ARJ4KBo8ftW3lu67aF>

JLB
3/26/18



RE: Jennifer Bean

Jennifer Bean to: James_Browning, Lincoln_Sorrell
Cc: Matt_Dykman, Cari_Waters, Jennifer_Bean

03/26/2018 11:52 AM

Thank you! I have several phone calls out to other districts, as well as the United States Court Reporters Association (USCRA), of which I am a member in good standing.

So far, the current USCRA president and Tenth Circuit rep agree with the following calculation, that in the event of five feeds:

3.05
2.10
2.10
2.10
1.50

-----Original Message-----

From: James_Browning@nmcourt.fed.us [mailto:James_Browning@nmcourt.fed.us]
Sent: Monday, March 26, 2018 11:42 AM
To: Lincoln_Sorrell@nmcourt.fed.us
Cc: Matt_Dykman@nmcourt.fed.us; Cari_Waters@ca10.uscourts.gov;
Jennifer_Bean@nmcourt.fed.us; Jennifer Bean <jbean@litsupport.com>
Subject: Jennifer Bean

Please find attached a letter that I received from Jennifer Bean. Please gather all of your emails, Jennifer's emails, my emails, and get these to Cari so she has the full exchange on this. All attachments and related documents should go to her, too.

Thank you.

Jim

(See attached file: Ltr from Jennifer Bean.pdf)

Click below to report this message as spam
for James_Browning@nmcourt.fed.us
<http://quarantine.nmd.circl0.dcn/.rs?id2=gCFzBNyS1WYN5MpmMM1>

Handwritten signature
3/26/18



Home » Court Services » District Clerks' Offices » Court Reporting » Transcript Fees » Fee Calculation Examples

FEE CALCULATION EXAMPLES

a. A defense attorney in a multi-defendant CJA case orders an original and two copies of an ordinary transcript of 100 pages.

The court reporter may charge the party the original ordinary transcript rate per page for the original transcript. At the request of the CJA attorney, the original transcript may be delivered in paper copy or electronic format for the defender to make and provide copies to any other CJA parties in the case needing a copy. Additional paper copies may be provided to other defense counsel at the commercially competitive copy rate as approved by the court. In this example:

- the charge for the original ordinary transcript would be: $\$3.65 \times 100 \text{ pages} = \365 ;
- the charge for the first copy, billed at the commercially competitive rate, would be: (estimated) $\$.10 \times 100 \text{ pages} = \10 ; and
- the charge for the second copy, billed at the commercially competitive rate would be: (estimated) $\$.10 \times 100 \text{ pages} = \10 .

b. A party in a civil case requests daily transcript copy and two copies of a trial generating 200 pages per day.

1. The charge to the private attorney would be the:

- original daily transcript rate (\$6.05 per page in this example) for the original;
- first copy daily transcript rate (\$1.20 per page in this example); and
- additional copy daily transcript rate (\$.90 per page in this example) for the second (multi-page transcript) copy to the same attorney.

2. The charges per day would be:

- $\$6.05 \times 200 \text{ pages} = \$1,210$ for the daily copy;
- $\$1.20 + \$.90 = \$2.10 \times 200 \text{ pages} = \420 for two copies per day.

3. Any copies to opposing counsel would be charged at \$1.20 for the first copy and \$.90 per page for additional paper or electronic copies.

c. A defense attorney orders a realtime transcript feed from a certified realtime reporter. The realtime feed generates 150 pages of transcript. The certified realtime reporter charges the current rate per page of realtime transcript for one feed, based on the tiered rate structure.

The charge to the defense attorney would be: $\$3.05 \times 150 \text{ pages} = \457.50 for one realtime transcript feed.

d. A defense attorney orders a realtime transcript feed from a certified realtime reporter. The opposing counsel orders two feeds for the same realtime transcript. The realtime feed generates 150 pages of transcript. The certified realtime reporter charges an equal rate per page of realtime transcript for each feed ordered, based on the tiered rate structure.

1. The charge to the defense attorney would be: $\$2.10 \times 150 \text{ pages} = \315 for one realtime transcript feed.

2. The charge to the opposing counsel for two realtime feeds would be:

- $\$2.10 \times 150 \text{ pages} = \315 for the first feed;
- $\$2.10 \times 150 \text{ pages} = \315 for the second feed;
- totalling \$630 for both feeds.



Home » Court Services » District Clerks' Offices » Court Reporting » Transcript Fees » Maximum Transcript Rates

MAXIMUM TRANSCRIPT RATES

	Original	First Copy to Each Party	Each Additional Copy to the Same Party
Ordinary Transcript (30 day) A transcript to be delivered within thirty (30) calendar days after receipt of an order.	\$3.65	\$.90	\$.60
14-Day Transcript A transcript to be delivered within fourteen (14) calendar days after receipt of an order.	\$4.25	\$.90	\$.60
Expedited Transcript (7 day) A transcript to be delivered within seven (7) calendar days after receipt of an order.	\$4.85	\$.90	\$.60
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day.	\$6.05	\$1.20	\$.90
Hourly Transcript A transcript of proceedings ordered under unusual circumstances to be delivered within two (2) hours.	\$7.25	\$1.20	\$.90
Realtime Transcript A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.	One feed, ¹ \$3.05 per page; two-to-four feeds, \$2.10 per page; five or more feeds, \$1.50 per page.		

¹A realtime "feed" is the electronic data flow from the court reporter to the computer of each person or party ordering and receiving the realtime transcription in the courtroom.

No charge for a
"realtime transcript copy"
exists.

§ 320.50.20 Qualifications of Reporters Charging for Realtime Translation

Official court reporters who have successfully completed the National Court Reporter Association (NCRA) Certified Realtime Reporter (CRR) examination or who have passed an equivalent qualifying examination are recognized as federal certified realtime reporters and are permitted, but not required, to sell realtime translation.

§ 320.50.30 Production

- (a) The transcript format guidelines prescribed by the Judicial Conference (**see: Guide, Vol. 6, § 520**) apply to realtime translation with the following exceptions:
 - (1) Realtime translation must be clearly marked as such with a header or footer that appears at the top or bottom of each page of transcript stating, "Realtime Unedited Transcript Only";
 - (2) The realtime translation should not include an appearance page, an index, or a certification; and
 - (3) If applicable, the electronic media label should be a different color than the color used on electronic media containing the text of certified transcript and should be marked with the words, "Realtime Unedited Transcript Only".
- (b) Electronic files may not contain any protection or programming codes that would prevent copying or transferring the data. JCUS-SEPT 91, p. 65 and JCUS-SEPT 12, p. 26.

§ 320.50.40 Distribution

- (a) A certified realtime reporter providing realtime translation should offer comparable services to all parties to the proceeding.
 - (1) The primary purpose of realtime translation is to provide access to a draft transcript of the proceedings on electronic media at the end of each day.
 - (2) It is not intended to be used in subsequent proceedings for any other purpose, or to be further distributed.
- (b) It should be noted that when realtime services are provided, there may be two versions of the transcript for one proceeding—unofficial (realtime translation) and official (certified transcript).
 - (1) The realtime translation may contain errors, some of which could change the accuracy or meaning of the testimony.

potential users of realtime reporting, the judiciary will pay for the router with built-in switch or equivalent technology and installation.

§ 320.70.60 Compensation for Realtime Reporting Services

- (a) Pursuant to 28 U.S.C. § 753(f), the Judicial Conference sets maximum fees court reporters may charge for preparing and providing realtime and official transcripts to non-judiciary persons. **See:** Maximum Transcript Rates on JNet.
- (b) If a certified realtime reporter chooses to offer realtime reporting services, all requesting parties to a court proceeding will be able to capture in realtime the unedited, uncertified transcription on their personal computers during court proceedings. The court (e.g., the judge, law clerk, and courtroom deputy) will have the option of being provided realtime reporting services without additional remuneration to the staff or contract court reporter.

§ 350 Electronic Sound Recording

§ 350.10 Authority for Use of Electronic Sound Recording

- (a) In September, 1983, following a study by the Federal Judicial Center, the Judicial Conference authorized the use of electronic sound recording of court proceedings, effective January, 1984. JCUS-SEP 83, p. 48.
- (b) In September, 1999, the Judicial Conference approved digital audio recording technology as a method of taking the official record in federal court proceedings, to be implemented upon the development of guidelines by the Director of the AO. JCUS-SEP 99, pp. 56-57.
- (c) Electronic sound recording equipment must be multi-channel audio equipment. For analog and digital electronic sound recording equipment specifications and standards, **see:** Guide, Vol. 6, Appx. 3B and Appx. 3C.
- (d) Change in Method Elected
 - (1) In the event a judge changes the election of the method of recording court proceedings from official court reporters to electronic sound recording systems, funding for the court reporter will be discontinued 90 days from the date of election to electronic sound recording systems.
 - (2) One additional period of up to 120 days beyond the original 90-day period will be allowed upon certification by the chief judge of the affected court to the circuit judicial council that additional staff

§ 520.56 Punched Holes

If the court reporter punches transcript with three holes in the left margin, the holes are to be 4-1/4" center to center, with the middle hole centered in the page.

§ 520.60 Fastener

The court reporter is to secure the transcript for each proceeding separately with a suitable fastener of permanent nature.

§ 520.63 Certification**§ 520.63.10 Requirement**

- (a) The court reporter or transcriber is to authenticate the original transcript and each copy with a certification on the last page.
- (b) The certification is to appear on the last page of each volume of transcript. If more than one court reporter or transcriber is involved in the production of the transcript being certified, then the certifications of each court reporter or transcriber involved must be required at the end of each volume. (**Note:** The contents of the title page should not be repeated as part of the certification.)
- (c) A rubber stamp with the certifications may be used to save time and space. A sample certification is provided in § 520.63.30.

§ 520.63.20 Reporter's Charge for Certification

- (a) If the reporter places the certification on a separate page from any transcript text, then the reporter may NOT charge for the certification page.
- (b) If the court reporter includes the certification on the last page of a transcript that contains actual transcript text, the reporter can charge for that page of text.

§ 520.63.30 Certification Examples

- (a) Stenography/Stenomask

"I (we) certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter."

Signature of Court Reporter/Transcriber

Date

§ 320.50.20 Qualifications of Reporters Charging for Realtime Translation

Official court reporters who have successfully completed the National Court Reporter Association (NCRA) Certified Realtime Reporter (CRR) examination or who have passed an equivalent qualifying examination are recognized as federal certified realtime reporters and are permitted, but not required, to sell realtime translation.

§ 320.50.30 Production

- (a) The transcript format guidelines prescribed by the Judicial Conference (see: Guide, Vol. 6, § 520) apply to realtime translation with the following exceptions:
 - (1) Realtime translation must be clearly marked as such with a header or footer that appears at the top or bottom of each page of transcript stating, "Realtime Unedited Transcript Only";
 - (2) The realtime translation should not include an appearance page, an index, or a certification; and
 - (3) If applicable, the electronic media label should be a different color than the color used on electronic media containing the text of certified transcript and should be marked with the words, "Realtime Unedited Transcript Only".
- (b) Electronic files may not contain any protection or programming codes that would prevent copying or transferring the data. JCUS-SEPT 91, p. 65 and JCUS-SEPT 12, p. 26.

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§ 530.63 Realtime Translation
§ 530.65 Transcripts in CJA Cases
§ 530.70 Transcripts for Cases on Appeal
§ 530.75 Fees for Transcripts to Be Paid by the United States
§ 530.85 Electronic Sound Recording Files
§ 530.90 Certification of Transcript Rates
§ 530.95 Overcharging for Transcripts

§ 540 Transcripts for Cases on Appeal
§ 540.20 Federal Rules of Appellate Procedure
§ 540.40 Required Forms
§ 540.50 Full Transcript Not Required for Criminal Appeals

§ 550 Criminal Justice Act (CJA) and In Forma Pauperis Proceedings
§ 550.40 Transcripts
§ 550.50 Procedures for Payments
§ 550.60 Depositions

§ 560 Copyright Laws

§ 510 Overview

§ 510.10 Introduction

One of the primary responsibilities of a court reporter is to provide a transcript of court proceedings upon the request of a party or order of court. The court reporter must also provide to the court a transcript or an electronic sound recording of all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases. The purpose of this chapter is to detail the requirements for transcript production, delivery, fees, and format.

§ 510.17 Transcript Categories

The Judicial Conference has approved the following transcript categories. No other transcript categories are authorized.

(a) Ordinary Transcript

A transcript to be delivered within 30 calendar days after receipt of an order.

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Re: Jennifer Bean

Cari Waters to: James O Browning

03/28/2018 01:27 PM

Cc: Carol A Bevel-Erwin, Estelle Hamilton, Jennifer Bean, Jennifer Bean,
K'Aun Wild, Lincoln J Sorrell, Matt Dykman

Thank you, Judge Browning. I have a call into the AO's expert on transcripts - am awaiting her call. Cari

Cari Dangerfield Waters
Case Budgeting Attorney
U.S. Court of Appeals for the Tenth Circuit
1823 Stout Street
Denver, CO 80257
Tel: (303) 335-2826

James O Browning

Please find two more memoranda that I have pr...

03/28/2018 01:08:18 PM

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**Re: Jennifer Bean**

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03/28/2018 03:38 PM

Cc: Carol A Bevel-Erwin, Estelle Hamilton, Jennifer Bean, Jennifer Bean,
K'Aun Wild, Lincoln J Sorrell, Matt Dykman

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RE: Jennifer Bean

Jennifer Bean to: Cari_Waters, James_Browning

03/28/2018 03:50 PM

Cc: Carol_Bevel, Estelle_Hamilton, Jennifer_Bean, K'Aun_Wild,
Lincoln_J_Sorrell, Matt_Dykman

All right. Then I will bill for four feeds at \$8.40 and throw the fifth in for free.

From: Cari_Waters@ca10.uscourts.gov [mailto:Cari_Waters@ca10.uscourts.gov]

Sent: Wednesday, March 28, 2018 3:38 PM

To: James_Browning@nmcourt.fed.us

Cc: Carol_Bevel@nmcourt.fed.us; Estelle_Hamilton@nmcourt.fed.us; Jennifer Bean
<jbean@litsupport.com>; Jennifer_Bean@nmcourt.fed.us; K'Aun_Wild@nmcourt.fed.us;
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Cc: Carol_Bevel, Estelle_Hamilton, James_Browning, Jennifer_Bean,
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According to Julie, you can bill at \$7.50 (5 X \$1.50). Voluntarily reducing the number of feeds to get a higher overall rate isn't an option. Sorry. Cari

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Jennifer Bean to: Cari_Waters

03/28/2018 03:59 PM

Cc: Carol_Bevel, Estelle_Hamilton, James_Browning, Jennifer_Bean,
K'Aun_Wild, Lincoln_J_Sorrell, Matt_Dykman

That is absolutely ridiculous!

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RE: Jennifer Bean

Jennifer Bean to: Cari_Waters

03/28/2018 04:05 PM

Cc: Carol_Bevel, Estelle_Hamilton, James_Browning, Jennifer_Bean,
K'Aun_Wild, Lincoln_J_Sorrell, Matt_Dykman

I respectfully request you to ask Ms. Neville to provide rationale that four feeds are 8.40, five feeds are 7.50, and six feeds are 9.00.

As I said before, I believe there has been a math error made in the drafting of this schedule.

From: Cari_Waters@ca10.uscourts.gov [mailto:Cari_Waters@ca10.uscourts.gov]

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From: James O Browning/NMD/10/USCOURTS
To: [Cari Waters/CA10/10/USCOURTS@USCOURTS](mailto:Cari_Waters@CA10/10/USCOURTS@USCOURTS)
Cc: [Matt Dykman/NMD/10/USCOURTS@USCOURTS](mailto:Matt_Dykman@NMD/10/USCOURTS@USCOURTS), [Lincoln J Sorrell/NMD/10/USCOURTS@USCOURTS](mailto:Lincoln_J_Sorrell@NMD/10/USCOURTS@USCOURTS), [K'Aun Wild/NMD/10/USCOURTS@USCOURTS](mailto:K'Aun_Wild@NMD/10/USCOURTS@USCOURTS), [Carol A Bevel-Erwin/NMD/10/USCOURTS@USCOURTS](mailto:Carol_A_Bevel-Erwin@NMD/10/USCOURTS@USCOURTS), Jennifer Bean/NMD/10/USCOURTS@USCOURTS, Jennifer Bean <jbean@litsupport.com>, Estelle Hamilton/NMD/10/USCOURTS@USCOURTS

Date: 03/28/2018 01:08 PM

Subject: Jennifer Bean

Please find two more memoranda that I have prepared on the reimbursement topic. The attachments are highlighted.

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The second deals with Jennifer's questions about "additional electronic copies."

Jim

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[attachment "Memo 2 w-attachments.pdf" deleted by Cari Waters/CA10/10/USCOURTS]

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OF SEPARATING EACH OF THE COMMUNICATION THREADS



RE: Jennifer Bean

Cari Waters to: Jennifer Bean

03/28/2018 04:06 PM

Cc: Carol_Bevel, Estelle_Hamilton, James_Browning, Jennifer_Bean,
K'Aun_Wild, Lincoln_J_Sorrell, Matt_Dykman

Jennifer,

Here is her contact information. Please feel free to call her. Cari

Julie Neville, J.D.

Court Reporting Program Specialist
Court Services Office
Administrative Office of the U.S. Courts
Tel 202-502-3414

Cari Dangerfield Waters
Case Budgeting Attorney
U.S. Court of Appeals for the Tenth Circuit
1823 Stout Street
Denver, CO 80257
Tel: (303) 335-2826

"Jennifer Bean"

I respectfully request you to ask Ms. Neville to pr...

03/28/2018 04:04:03 PM

From: "Jennifer Bean" <jbean@litsupport.com>
To: <Cari_Waters@ca10.uscourts.gov>
Cc: <Carol_Bevel@nmcourt.fed.us>, <Estelle_Hamilton@nmcourt.fed.us>,
<James_Browning@nmcourt.fed.us>, <Jennifer_Bean@nmcourt.fed.us>,
<K'Aun_Wild@nmcourt.fed.us>, <Lincoln_J_Sorrell@nmcourt.fed.us>,
<Matt_Dykman@nmcourt.fed.us>
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Sent: Wednesday, March 28, 2018 3:53 PM

To: Jennifer Bean <jbean@litsupport.com>

Cc: Carol_Bevel@nmcourt.fed.us; Estelle_Hamilton@nmcourt.fed.us;
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Lincoln_J_Sorrell@nmcourt.fed.us; Matt_Dykman@nmcourt.fed.us

Subject: RE: Jennifer Bean

Jennifer,

According to Julie, you can bill at \$7.50 (5 X \$1.50). Voluntarily reducing the number of feeds to get a higher overall rate isn't an option. Sorry. Cari

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Date: 03/28/2018 03:49 PM
Subject: RE: Jennifer Bean

All right. Then I will bill for four feeds at \$8.40 and throw the fifth in for free.

From: Cari_Waters@ca10.uscourts.gov [mailto:Cari_Waters@ca10.uscourts.gov]
Sent: Wednesday, March 28, 2018 3:38 PM
To: James_Browning@nmcourt.fed.us
Cc: Carol_Bevel@nmcourt.fed.us; Estelle_Hamilton@nmcourt.fed.us; Jennifer Bean <jbean@litsupport.com>; Jennifer_Bean@nmcourt.fed.us; K'Aun_Wild@nmcourt.fed.us; Lincoln_J_Sorrell@nmcourt.fed.us; Matt_Dykman@nmcourt.fed.us
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Please let me know if I can be of further assistance. Warm regards. Cari

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RE: Jennifer Bean

Jennifer Bean to: Cari_Waters

03/28/2018 04:11 PM

Cc: Carol_Bevel, Estelle_Hamilton, James_Browning, Jennifer_Bean,
K'Aun_Wild, Lincoln_J_Sorrell, Matt_Dykman

Thanks, I will tomorrow, since she is probably gone for the day.

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